THE HONOURABLE SRI JUSTICE R. SUBHASH REDDY

WRIT PETITION NO. 20150 OF 2007

DATED: 19-11-2007

Between:

T. Madhukar Reddy,
S/o. T. Venkata Ramana Reddy

… Petitioner

And

1. The Commissioner of Prohibition & Excise,
Andhra Pradesh, Hyderabad and two others

… Respondents

THE HONOURABLE SRI JUSTICE R. SUBHASH REDDY

WRIT PETITION NO. 20150 OF 2007

ORDER:

This writ petition is filed by the petitioner seeking a direction by way of Mandamus to declare the action of the respondents in not refunding the licence fee in proportion to the unexpired period of lease and not releasing the bank guarantee in respect of the Shop.No.165 of Neerugattupalli, Madanapalle Municipality, Chittoor District as illegal and arbitrary and to direct the respondents to refund the licence fee and release the bank guarantee.

The first respondent-Commissioner of Prohibition & Excise notified 204 A4 shops in Chittoor Excise District for grant of licence for the excise year 2006-08 commencing from 01-06-2006 to 30-06-2008. One such shop was notified for sale of Indian liquor and foreign liquor at Sl.No.165 in the gazettee for location at Rangampet Cross, Puthalapattu Mandal by fixing the upset price of Rs.13,19,998/-. However, during the auction there were no bidders for such shop and based on the report submitted by the second respondent to the first respondent, the first respondent granted permission for shifting of the

said shop notified at item No.165 in the gazettee of Rangampet Cross of Puthalapaddu Mandal to Ward No.35 of Neerugattuvaripalli village in Madanapalli Municipality. After relocation of the shop at Ward No.35 of Neerugattuvaripalli, the upset price was fixed at Rs.10,03,561/- and the petitioner is the licensee being the successful bidder in the auction and the licence was granted on 29-12-2006. As per the provisions of the relevant rules framed under the A.P.Excise Act, the petitioner has paid the licence fee and also furnished the bank guarantee. However, the relocating of the shop and consequentially granting of licence to the petitioner came to be challenged before this court by the other licence holders in W.P.No.215 of 2007, and this court by order dated 01-03-2007 allowed the writ petition as prayed for declaring the grant of licence in favour of the petitioner as illegal. The said judgment of the learned single judge is also confirmed in the appeal preferred by the petitioner in W.A.No.271 of 2007 by the division bench of this Court by order dated 01-05-2007.

In view of the judgment of this court, petitioner could not run the shop for the period of licence for which licence was granted. In that view of the matter, he submitted his representation on
15-05-2007 for refund of the proportionate licence fee and release of bank guarantee. When such licencee fee was not repaid, the petitioner approached this court.

A counter affidavit is filed by the second respondent-Prohibition and Excise Superintendent. In the counter affidavit, while admitting the request of the petitioner for refund of the proportionate licence fee and bank guarantee, it is stated that a detailed report was submitted to the first respondent vide Rc.No.A/219/2006. It is further stated that the first respondent in turn addressed a letter to the Government in Cr.No.11243/2007/CPE/T1, dated 24-10-2007 and the orders of the Government are awaited.

Though the period of licence was notified for two years and licence fee was also collected in full along with the bank guarantee,

but, however, the petitioner had to stop the business in view of the judgment of this Court. In that view of the matter, the petitioner is entitled for refund of proportionate licencee fee for the unexpired period of licence. Even according to the respondents, the petitioner is entitled for refund of licence fees in proportion to the unexpired portion of lease. But, however, it is stated that orders are awaited from the Government. As much as the petitioner has stopped his business from the month of March, 2007 itself, there is no reason or justification for the abnormal delay in refunding the amount to the extent of unexpired portion of lease.

In that view of the matter, the third respondent-Government is directed to take expedient steps pursuant to the letter of the first respondent dated 24-10-2007 in Cr.No.11243/2007/CPE/Ti and make arrangements for the refund of the licence fees for the unexpired period of licence and also release the bank guarantee, within a period of six weeks from the date of the receipt of this order.

The writ petition is, accordingly, disposed of. No costs.

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R. SUBHASH REDDY, J.

Dt: 19-11-2007
Note:
Issue C.C.within three days.
B/O
Rns

THE HONOURABLE SRI JUSTICE R. SUBHASH REDDY

WRIT PETITION NO. 22088 OF 2007

Dated: 12-10-2007

RNS